

REMARKS

Applicants respectfully request consideration of the subject application.

This Response is submitted in response to the Office Actions mailed December 19, 2006 and September 7, 2007. Claims 1, 2, 4 and 5 are pending. Claims 1, 2, 4 and 5 are rejected. In this Amendment, claims 1 and 4 have been amended, claim 5 has been cancelled, and claims 13-17 have been added. No new matter has been added.

Objections to the Drawings

The Examiner objected to the drawings because the Examiner submits the x-axis is not properly labeled. Applicants have labeled the x-axis of the drawings. Accordingly, Applicants request withdrawal of the objections to the drawings.

Objections to the Specification

The Examiner objected to the specification because the Examiner submits the specification and abstract include various errors. Applicants submit herewith a substitute specification correcting the errors pointed out by the Examiner. Applicants, however, disagree with the Examiner's assertions regarding enablement and definiteness of the specification and submit the specification was

IN THE DRAWINGS

Applicants submit a Replacement Sheet No. 1 containing Figure 1 and reflecting corrections made to Figure 1.

enabling and definite as originally filed. Accordingly, Applicants request withdrawal of the objections to the drawings.

Claim Objections

The Examiner objected to claim 1 and 5 for various informalities. Applicants have amended the claims. Applicants, accordingly, request withdrawal of the claim objections.

35 U.S.C. § 112 Rejections

The Examiner has rejected claims 1, 2, 4 and 5 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner submits the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Examiner has also rejected claims 1, 2, 4 and 5 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicants have amended the claims to overcome the Examiner's rejections. In particular, to advance prosecution of the application, Applicants

have removed references to using the compound resulting from the claimed process for treating or preventing a stroke; however, Applicants disagree with the Examiner's assertions regarding enablement and definiteness of the specification and/or claims. Applicants, accordingly, request withdrawal of the rejections under 35 U.S.C. § 112.

#### 35 U.S.C. § 103 Rejections

The Examiner has rejected claims 1, 2, 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Ishida, et al. (N, JP 63-216432 A, hereinafter "Ishida") in view of Tsuji, et al. (O, JP 2001-112437 A, hereinafter "Tsuji"); Bae, et al ("Metabolism of 20(S)-and 20 (R)-Ginsenoside R<sub>g3</sub> by Human Intestinal Bacteria and Its Relation to *in Vitro* Biological Activities", Biological and Pharmaceutical Bulletin, Vol. 25, No. 1, pages 58-63, 2002, hereinafter "Bae"); Roberfroid ("Prebiotics and probiotics: are they functional foods?", The American Journal of Clinical Nutrition, 2000; 71(suppl):1682S-7S, hereinafter "Roberfroid"); Chin, et al. (JP 07-089863 A, hereinafter "Chin"); Hikino, et al. (JP 61-115013 A, hereinafter "Hikino"); Hashimoto, et al (JP 03-277247 A, hereinafter "Hashimoto"); and [http://web.archive.org/web/\\*/http://www.diabetic-lifestyle.com/articles/mar00\\_cooki\\_1.htm](http://web.archive.org/web/*/http://www.diabetic-lifestyle.com/articles/mar00_cooki_1.htm) (hereinafter "diabetic-lifestyle").

The cited art fails to teach or suggest, alone or in combination:

- treating ginseng (*Panax ginseng* or *Panax quinquefolius*) with an acid solution;
- extracting an organic extract from the ginseng; and
- subsequently fermenting the organic extract with a lactic-acid bacteria.

The Examiner provides examples of various articles and patents that describe combining ginseng with a yogurt and/or lactic bacteria. The Examiner, however, fails to provide a reference that discloses treating the ginseng with an acid solution and extracting an organic extract from the treated ginseng prior to subsequently fermenting the organic extract, as claimed.

The Examiner has pointed to no reference that discloses both treating ginseng with an acid solution and subsequently fermenting the ginseng as presently claimed. Applicants submit there is no teaching, suggestion or motivation to combine ginseng treated with an acid solution with a subsequent fermentation process to arrive at the presently claimed invention.

As explained in the present specification, combining treating the ginseng with the acid solution, extracting a processed ginseng extract from the acid treated ginseng, with subsequently fermenting the extract results in a composition that can be used for the prevention and/or treatment of strokes. None of the cited references disclose a process which results in a process having such benefits. Figure 1 and Table 1 illustrate the benefits of various exemplary

compounds formed using the claimed process compared with compounds formed using prior art processes.

Thus, the cited art fails to teach or suggest all of the limitations of independent claim 1. Claims 2, 4 and new claims 13-17 depend, directly or indirectly, from one of the foregoing independent claims. Applicants, accordingly, respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

Applicants respectfully submit that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Jennifer Hayes at (408) 720-8300.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,  
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